

**IDELL & SEITEL LLP**  
MERCHANTS EXCHANGE BUILDING  
465 CALIFORNIA STREET, SUITE 300  
SAN FRANCISCO, CALIFORNIA 94104  
TEL: (415) 986-2400  
FAX: (415) 392-9259  
www.idellseitel.com

Richard J. Idell\*  
Owen Seitel

Ory Sandel  
Elizabeth J. Rest

\*A Law Corporation

Sonoma County Office:  
18900 Carriger Road  
Sonoma, California 95476  
TEL: (707) 938-7763  
FAX: (707) 938-7764

Writer's email:  
richard.idell@idellseitel.com

February 28, 2012

**VIA ECF FILING**

The Honorable Magistrate Judge Lois Bloom  
U.S. District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

**Re: *Skee Ball, Inc. v. Full Circle United, LLC* ("Action No. 1")  
Eastern District of New York Case No.: 11-CV-6277 (DLI) (LB)**

***Full Circle United, LLC v. Skee Ball, Inc.* ("Action No. 2")  
Eastern District of New York Case No.: 1:11-CV-5476 (DLI) (LB)**

Dear Magistrate Judge Bloom:

This office represents Skee-Ball, Inc. ("SB") in both of the above-referenced matters.

On October 5, 2011, SB commenced the first-filed action, *Skee Ball, Inc. v. Full Circle United, LLC*, in the United States District Court, Northern District of California ("Action No. 1"). The case was assigned to Magistrate Judge Elizabeth D. Laporte. A Scheduling Order for initial Case Management Conference, initial disclosures, etc. was issued.

On November 8, 2011, Full Circle United, LLC ("Full Circle") filed "Action No. 2." Action No. 2 was assigned to the Honorable District Judge Dora L. Irizarry and Your Honor.

On November 9, 2011, Full Circle moved the California District Court to dismiss or transfer Action No. 1 to this Court. On December 22, 2011, Judge Laporte denied Full Circle's

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motion to dismiss Action No. 1; however, Judge Laporte granted a discretionary transfer motion to the Eastern District of New York based on forum non conveniens under 28 U.S.C. § 1404. Doc. No. 20 in Action No. 1. Upon transfer, Action No. 1 was assigned to Judge Nicholas Garaufis and Magistrate Judge James Orenstein and given a new index number in this district, 11-CV-6277. Of course, the initial scheduling order issued by the California District Court was vacated.

On December 27, 2011, Magistrate Judge Orenstein issued a Case Management and Scheduling Order in Action No. 1. Doc. No. 22 in Action No. 1.

However, by letters dated January 3 and 9, 2012, SB and Full Circle, respectively, requested and consented to a determination that Action No. 1 and Action No. 2 be deemed “related.”

On January 25, 2012, Chief Judge Carol Bagley Amon granted the “relatedness” request and ordered that Action No. 1 be reassigned to District Judge Dora L. Irizarry and Your Honor.

Of course, upon reassignment to Your Court, the Case Management and Scheduling Order entered by Magistrate Judge Orenstein in Action No. 1 was vacated.

On January 17, 2012, Full Circle filed counterclaims in Action No. 1 that are identical to the claims it asserted in Action No. 2, except for a venue allegation.

On January 20, 2012, SB moved to dismiss or stay Action No. 2 pending resolution of Action No. 1 on the grounds that the claims asserted in Action No. 2 are compulsory counterclaims to Action No. 1 – and, in fact, were asserted by Full Circle as counterclaims in Action No. 1 – and therefore the duplicative claims should be litigated, to the extent that they assert valid claims, solely in Action No. 1 as the first-filed action. Doc. Nos. 7-10 in Action No. 2.

On February 7, 2012, SB moved to dismiss several of the Counterclaims alleged by Full Circle in Action No. 1. Doc. Nos. 33-36 in Action No. 1.

Both of the above-mentioned Motions are pending before the Court.

In the meantime, both cases remain pending with no operative Scheduling Order. Accordingly, we are writing to request that Your Honor issue a Case Management and Scheduling Order in both of the above-referenced cases. SB respectfully requests that such Order contain dates for: (1) an initial discovery conference (pursuant to F.R.C.P. 16(a)) and/or initial case management conference; (2) exchange of initial disclosures (F.R.C.P. 26(a)(1)); (3) electronic filing of joint discovery plan and/or case management conference statement; and (4) any other matters Your Honor believes would procedurally advance Action Nos. 1 and 2.

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Thank you for your consideration of this matter.

Respectfully submitted,

IDELL & SEITEL LLP



Richard J. Idell

RJI:be

cc: via email:

Robert Michael Harkins, Jr.  
Jennifer Ming  
Gregory J. Lahr  
Geri S. Krauss  
Jann Moorhead  
Elizabeth J. Rest